

REMARKS

Applicant has carefully reviewed the Office Action mailed on July 14, 2003, and notes with appreciation the substantive allowance of claims 16-28, 39-40, 42-49, 55, 57-85, 94-97, 111-117, 123-124, 127-155, and 161-163. Additionally, Applicant appreciates the courtesies shown by the Examiner in the telephone interview of November 4, 2003.

On a preliminary note, the Examiner's Interview Summary has been received. Applicant appreciates the Examiner's initiative in preparing this document, but respectfully notes a couple of inaccuracies. Specifically, the claims discussed during the interview require a "superconducting element" that is rotated, rather than a "superconducting levitating member." Furthermore, the '215 patent is incorrectly characterized as "prior art."

During the interview, Applicant stressed the improper nature of the double patenting rejections made in the previous Office Actions, since: (1) the proper foundation has not been laid to establish "obviousness-type" double patenting (as was explained in detail in the Office Action Response submitted on April 4, 2003, which is incorporated herein by reference); and (2) no *unjustified* time wise extension of the term of the '215 patent results. In response, it is believed that the Examiner admitted that the differences in the language used in the claims under consideration had been overlooked (specifically, the requirement for a motive device for rotating the superconducting element), and agreed to reconsider the obviousness-type double patent rejections of claims 1-8, 10-28, 39, 40, 42-49, 50-54, and 125-126 in light of these differences.

To address the other issues raised in the Action, Applicant also cancels dependent claims 156-160 and submits herewith a Terminal Disclaimer relative to any patent issuing based on commonly owned, co-pending application Ser. No. 10/120,006. The Examiner is authorized to debit the fee under 37 CFR 1.20(d) from Deposit Account 11-0978. An appropriate Statement Under 37 CFR 3.73(b) is also submitted concurrently herewith.

Finally, a request for a one (1) month extension of time is submitted concurrently herewith to move the response deadline to November 14, 2003. The Examiner is authorized to charge any fees required to Deposit Account 11-0978.

In summary, Applicant has addressed and overcome all issues raised in the Office Action dated July 14, 2003. Since it is believed that all claims are now in condition for allowance, an early notice to this effect is earnestly solicited. However, if the Examiner determines that some minor or formal issue prevents the issuance of the Notice of Allowance, please contact the Applicant's Counsel at the following telephone number.

Respectfully submitted,

KING & SCHICKLI, PLLC

A handwritten signature in black ink, appearing to read 'Andrew D. Dorisio', with a long horizontal flourish extending to the right.

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